

Message Text

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TO AMEMBASSY BONN FLASH

WHITE HOUSE FLASH

INFO USMISSION GENEVA

S E C R E T STATE 122442

TOSEC 26

E. O. 11652: GDS

TAGS: PFOR

SUBJECT: CSCE: SECRETARY'S MEETING WITH GENSCHER -- ISSUES
OF PEACEFUL CHANGE OF FRONTIERS AND QUADRIPARTITE RIGHTS

DISCLAIMER

WHITE HOUSE PLEASE USDEL SALZBURG

FROM SONNENENFELT AND HARTMAN

GENEVA FOR CSCE DEL

1. VON STADEN CALLED ON US JUNE 10 TO SAY THAT THESE
TWO ISSUES WERE OF GREAT PERSONAL IMPORTANCE TO GENSCHER
AND THAT HE PLANNED TO BRING THEM UP IN HIS MEETING WITH
YOU JUNE 11. VON STADEN DEALT AT LENGTH WITH THE PEACE-
FUL CHANGE ISSUE BUT MENTIONED THE DISCLAIMER QUESTION
ONLY IN PASSING. VON STADEN'S APPROACH CAME ON THE HEELS
OF DEMARCHES BY THE FRG TO THE UK AND US AND FRENCH IN
BONN ON JUNE 7. FRG FORCEFULNESS AT THIS POINT, AFTER

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WEEKS OF RELATIVE QUIET, PROBABLY STEMS FROM FACT THAT

CSU/CDU OPPOSITION IN BUNDESTAG HAS BEGUN CRITICIZING CSCE LANGUAGE ON BORDERS AND PEACEFUL CHANGES, AS FURTHER EXAMPLE OF COALITION LAXNESS ON REUNIFICATION ISSUES. GENSCHER WHO HIMSELF OBJECTS TO 1970 FRG-SOVIET TREATY PROVISIONS ON BORDERS, SEEMS DETERMINED TO DO BETTER THAN EGON BAHR IN THIS AREA. (FYI WE BELIEVE CURRENT CSCE LANGUAGE ON INVIOABILITY OF FRONTIERS DOES LESS VIOLENCE TO GERMAN BORDER CONSIDERATION

THAN FRG'S OWN TREATIES WITH POLAND AND USSR. END FYI.

2. WITH RESPECT TO THE PEACEFUL CHANGE ISSUE, YOU MAY RECALL THAT, JUST BEFORE THE EASTER BREAK IN THE GENEVA TALKS, WESTERN PARTICIPANTS AGREED TO LANGUAGE ON FRONTIER INVIOABILITY IN RETURN FOR SOVIET AGREEMENT ON A TEXT COVERING PEACEFUL CHANGE OF BORDERS. THE TWO TEXTS FOLLOW:

FRONTIER INVIOABILITY: BEGIN TEXT. THE PARTICIPATING STATES REGARD AS INVIOABLE ALL ONE ANOTHER'S FRONTIERS AS WELL AS THE FRONTIERS OF ALL STATES IN EUROPE AND THEREFORE THEY WILL REFRAIN NOW AND IN THE FUTURE FROM ASSAULTING THESE FRONTIERS. ACCORDINGLY, THEY WILL ALSO REFRAIN FROM ANY DEMAND FOR OR ACT OF SEIZURE AND USURPATION OF PART OR ALL OF THE TERRITORY OF ANY PARTICIPATING STATE. END TEXT.

PEACEFUL CHANGE: BEGIN TEXT. THE PARTICIPATING STATES CONSIDER THAT THEIR FRONTIERS CAN BE CHANGED ONLY IN ACCORDANCE WITH INTERNATIONAL LAW THROUGH PEACEFUL MEANS AND BY AGREEMENT. END TEXT.

3. VON STADEN SAID THAT GENSCHER DOES NOT CONSIDER THE WORDING OF THE PEACEFUL CHANGE FORMULA TO BE SATISFACTORY AND WISHES OUR SUPPORT FOR AN AMENDMENT. VON STADEN DID NOT HAVE TEXT OF THE NEW LANGUAGE AND WAS NOT ENTIRELY CLEAR ABOUT ITS THRUST. HOWEVER, HE SAID FRG WOULD TABLE A PAPER TODAY IN THE BONN GROUP GIVING DETAILS OF ITS POSITION.

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4. VON STADEN ALSO NOTED THAT FRG DELEGATION IN GENEVA HAD RESERVED ON THE EXACT TEXT OF THE PEACEFUL CHANGE FORMULA BUT OTHER WESTERN DELEGATIONS HAD NOT DONE SO.

BEGIN COMMENT. TEXT ON PEACEFUL CHANGE WAS ONLY "PROVISIONALLY REGISTERED" AND FRG DELEGATE IN GENEVA MADE FOLLOWING STATEMENT ON SUBJECT ON APRIL 5: QTE.

BEFORE THE DELEGATION OF THE FEDERAL REPUBLIC OF GERMANY
CAN GIVE ITS CONSENT TO THE FINAL FORMULATION OF THE
PRINCIPLE OF INVIOABILITY OF FRONTIERS, IN PARTICULAR
TO THE WORDS "DEMAND FOR" IN THE SECOND SENTENCE,
AGREEMENT MUST HAVE BEEN REACHED ON THE FOLLOWING

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QUESTIONS:

- - -
1. ON THE PRINCIPLE TO WHICH THE FORMULATION CONCERN-
ING "PEACEFUL CHANGE" WILL BE ATTACHED;

2. ON A PRECISE FORMULATION OF "PEACEFUL CHANGE"
IN THIS NEW CONTEXT;

3. ON A PRECISE FORMULATION OF THE PRINCIPLE OF "SELF-
DETERMINATION";

4. ON A FORMULA CONCERNING THE CONNECTION BETWEEN
THE PRINCIPLES;

5. FURTHERMORE, THE GERMAN TEXT OF THESE PRINCIPLES
MUST BE SATISFACTORY TO THE DELEGATION OF THE FEDERAL
REPUBLIC OF GERMANY. UNQUOTE.

NO OTHER ALLIED DELEGATION SPOKE TO THE ISSUE AT THIS
TIME. HOWEVER, IT HAD BEEN OUR ASSUMPTION THAT
FRG UNDERSTOOD NATO DELEGATIONS WERE PREPARED TO
SUPPORT FRG POSITION IF DIFFICULTIES AROSE LATER.
END COMMENT.

5. ON THE DISCLAIMER ISSUE, VON STADEN DID NOT GO
INTO DETAIL. HOWEVER, WE KNOW FROM EMBASSY BONN
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REPORTING THAT THE FRG HAS RECENTLY BECOME MORE CON-
CERNED ABOUT THE PARAGRAPH ON SOVEREIGNTY IN THE
PRINCIPLES DECLARATION. THIS TEXT, WHILE NOT FULLY
AGREED, INCLUDES SOME RINGING STATEMENTS ON SOVEREIGN
RIGHTS AND EQUALITY OF PARTICIPANTS. THERE IS OF
COURSE SOME TENSION BETWEEN STRONG DECLARATORY
PLEDGES OF RESPECT FOR SOVEREIGNTY OF GDR, AND THE
FACT OF CONTINUING QUADRIpartite RIGHTS AND RESPONSI-
BILITIES FOR BERLIN AND GERMANY AS A WHOLE. THERE IS
ALSO SOME CONFLICT BETWEEN A NON-USE OF FORCE
PLEDGE AND ALLIED CONTINGENCY PLANS CONCERNING
SERIOUS BERLIN ACCESS BLOCKAGE.

6. THIS PROBLEM, AND CONSEQUENT NEED FOR SOME FORM OF
DISCLAIMER ASSERTING CONTINUATION OF QUADRIpartite

RIGHTS, HAS BEEN DISCUSSED IN THE BONN GROUP OFF
AND ON FOR SOME TIME. IN EARLIER DISCUSSIONS, FRG
REPRESENTATIVES HAD SHOWN NO RPT NO GREAT CONCERN
ABOUT THE ISSUES AND EVEN ON OCCASSION OPPOSED

DISCLAIMERS. IN ANY CASE, IT WAS AGREED THAT THE
FRENCH DELEGATE AT GENEVA WOULD MAKE AN ORAL STATEMENT,
ON BEHALF ALSO OF THE UK AND US, WHICH WOULD THEN
BE CIRCULATED AS A CONFERENCE DOCUMENT. THAT WAS
DONE ON SEPTEMBER 28 AND THE TEXT OF DISCLAIMER STATE-
MENT READS AS FOLLOWS: BEGIN TEXT. AS WE PARTICIPATE
IN THE WORK OF THE CONFERENCE ON A DECLARATION OF
PRINCIPLES I WOULD LIKE TO MENTION THAT JOINING IN
SUCH A DECLARATION CAN IN NO WAY AFFECT THE RIGHTS AND
RESPONSIBILITIES OF THE FOUR POWERS AND THE CORRESPOND-
ING, RELATED QUADRIpartite AGREEMENTS, DECISIONS AND
PRACTICES REFERRED TO IN THE QUADRIpartite DECLARATION
OF NOVEMBER 9, 1972. END TEXT. APPARENTLY THE
FRG NOW BELIEVES A MORE FORMAL DISCLAIMER IS CALLED FOR,
BUT WE DO NOT KNOW PRECISELY WHAT IS INTENDED.

7. THE FOREGOING WERE COVERED BRIEFLY IN THE CSCE
SECTION OF THE MEMORANDUM PREPARED EARLIER FOR YOUR
MEETING WITH GENSCHER AGAINST THE BACKGROUND OF THE
RECENT FRG DEMARCHE. WE CONTINUE TO BELIEVE YOU SHOULD
TAKE A GENERALLY FORTHCOMING APPROACH WITH RESPECT
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TO BOTH ISSUES. YOU MAY WISH TO ELABORATE SOMEWHAT
ON THE PREVIOUSLY SUGGESTED TALKING POINTS, AS FOLLOWS:
BEGIN TALKING POINTS:

--WE WILL CONTINUE TO SUPPORT FRG EFFORTS TO OBTAIN
AN APPROPRIATE REFERENCE TO PEACEFUL BORDER CHANGES IN
THE PRINCIPLES DECLARATION. WITH RESPECT TO THE
AMENDMENT WHICH GENSCHER WISHES TO MAKE TO THE PRO-
VISIONALLY AGREED TEXT, WE WILL STUDY IT SYMPATHETICALLY,
ALTHOUGH WE CANNOT OF COURSE PREDICT HOW THE SOVIETS
AND THEIR ALLIES WILL REACT;

--WE ALSO UNDERSTAND AND SHARE THE FRG CONCERNS THAT
THE PRINCIPLES DECLARATION, AND PARTICULARLY THE
PARAGRAPH ON SOVEREIGNTY, SHOULD NOT BE INTERPRETED
TO UNDERMINE QUADRIpartite RIGHTS AND RESPONSIBILITIES.

--IF THE GERMANS NOW FAVOR AN ADDITIONAL DISCLAIMER,
WE BELIEVE THE MATTER SHOULD BE STUDIED IN THE BONN
GROUP IN THE FIRST INSTANCE;

--WE WILL CONSIDER THE PROPOSALS OF THE FRG SYMPATHETI-

CALLY BUT WE WOULD NOT FAVOR EFFORTS TO OBTAIN A JOINT
POSITION BY "ALL THE SIX" (THE FOUR ALLIES, PLUS

USSR AND GDR) AS THE FRENCH HAVE RECENTLY SUGGESTED.
BEGIN FYI. A SIX-POWER DECLARATION WOULD PLACE FRG AND
GDR ON SAME PLANE AS THE FOUR VICTORIOUS POWERS AND THUS
DILUTE RATHER THAN SAFEGUARD FOUR POWER RIGHTS. ALL
FOUR POWERS RECOGNIZED THIS FACT WHEN SIGNING 1971 BERLIN
AGREEMENT, MAKING TWO GERMAN STATES PARTIES ONLY TO
INFERIOR SUPPLEMENTAL ARRANGEMENTS. THIS TWO-TIERED
APPROACH IS ONLY A THEORETICAL OPTION FOR CSCE BECAUSE
NEITHER GERMAN STATE WOULD ACCEPT IT. END FYI.

--THE SOVIETS MAY RESIST A STRONG DISCLAIMER WHICH
WOULD TEND PUBLICLY TO EMPHASIZE THE LIMITATIONS ON
GDR SOVEREIGNTY.

8. FOR BONN: AMBASSADOR HILLENBRAND SHOULD SEEK TO
OBTAIN AND BRING TO BAVARIA WITH HIM FOR SECRETARY'S
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BACKGROUND A COPY OF FRG PAPER REFERRED TO IN PARAGRAPH
3 ABOVE.

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